



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/356,543	07/19/1999	MATTHEW D. BARNHART	VMS98-01PM	7963

21005 7590 01/14/2003

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
----------	--------------

2175

DATE MAILED: 01/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/356,543

Applicant(s)

BARNHART ET AL.

Examiner

Sam Rimell

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 15.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

SAM RIMELL
PRIMARY EXAMINER

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flagging and alarm features must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorne ('293) in view of Ballantyne et al. ('821).

Dorne discloses a computer having a memory to store a software program (FIGS 2A-8B) and a physician interface (108, 116). The memory can store patient demographic information (FIG. 2B), and patient diagnosis information (FIG. 3B).

The patient diagnosis information can be sorted into different categories (left side of FIG. 3B).

The patient records can be sorted by the location of the patient's name in the memory. FIG. 2C illustrates a sorting process where the patient's name is sorted from the memory.

The software of Dorne provides guideline notifications associated with different billing codes (FIG. 3G). The pop-up display of FIG. 3G reads as a flag or alarm. The specification

Art Unit: 2166

does not define the nature of the flag or alarm, beyond the fact that they exist. Thus, the pop-up display of FIG. 3G can read as both.

All of the billing code and diagnosis codes illustrated by Dorne are specific to physicians specialized in cardiology (FIGS 3A-3G).

The system of Dorne further provides menus for medical procedures (lower right corner of FIG. 3G) and management (lower left corner of FIG. 3G).

Dorne differs from the claims in that it does not disclose a handheld processor that includes an interface to communicate with an interface device to download data.

However, FIG. 1 of Ballantyne et al. discloses a personal digital assistant (PDA) that comprises a physician interface (writing surface, col. 14 line 25) and an additional interface to permit communication of data to a nursing station computer via wireless link (col. 12, lines 35-37). The Ballantyne et al. device is specifically tailored to enter patient information into a patient health record (col. 13, lines 29-37) and down load the data to a nursing station (col. 14, lines 30-31).

It would have been obvious to one of ordinary skill in the art to modify the software program Dorne to be applied to the PDA of Ballantyne et al. so as to permit the physician to enter data while performing rounds in a hospital and thus improve healthcare quality (col. 2, lines 55-62 of Ballantyne et al.).

In addition, the usage of a bar code scanner to enter data into a PDA would have been obvious to one of ordinary skill in the art as a choice of design. Examiner takes Official Notice that Bar code scanners are well known in the art as a standard data input device to computers.

Art Unit: 2166

Remarks

This office action has not been made final.

Upon reconsideration, claims 5, 13 and 20 have been rejected under the current grounds of rejection. Examiner notes that the specification does not define the nature of the flag or the alarm. Thus, the pop-up display in FIG. 3G of Dorne can be read as either a flag or an alarm, lacking any indication that a pop-up would not be a flag or an alarm.

Applicant's arguments presented in the amendment reflect the arguments presented during the Interview on January 9, 2003. These arguments were discussed during the interview and an interview summary setting forth both Applicant's and Examiner's position is included with this action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell
Primary Examiner
Art Unit 2166